

AMENDED IN SENATE MARCH 29, 2005

SENATE BILL

No. 1090

Introduced by Senator Maldonado

February 22, 2005

An act to amend Section ~~10091~~ 1016 of the Insurance Code, relating to insurance *insolvency*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1090, as amended, Maldonado. Insurance: *insolvency*: *liquidation*.

Existing law requires a court to issue an order vesting title in the Insurance Commissioner to the assets of a person doing insurance business in the state if the person is insolvent, as defined, or meets other specified criteria. Existing law provides that if it appears to the commissioner that it would be futile to proceed as conservator with the conduct of the business of the person, the commissioner may apply to the court for an order to liquidate and wind up the business of the person.

This bill would provide that the Treasurer or the Attorney General may challenge an application for an order to liquidate. It would require the commissioner, before completing any sale of assets of the person that exceeds \$10 million in price, to notify the Treasurer of the pending sale and provide any documents that the department possesses regarding the value of the assets.

~~Existing law generally regulates property insurance and defines certain terms as used in those provisions.~~

~~This bill would make a technical, nonsubstantive change to those provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 10091 of the Insurance Code is~~
2 ~~amended to read:~~

3 ~~SECTION 1. Section 1016 of the Insurance Code is amended~~
4 ~~to read:~~

5 1016. (a) If at any time after the issuance of an order under
6 section 1011, or if at the time of instituting any proceeding under
7 this article, it shall appear to the commissioner that it would be
8 futile to proceed as conservator with the conduct of the business
9 of ~~such the person, he the commissioner~~ may apply to the court
10 for an order to liquidate and wind up the business of ~~said the~~
11 person. Upon a full hearing of ~~such the~~ application, the court may
12 make an order directing the winding up and liquidation of the
13 business of ~~such the~~ person by the commissioner, as liquidator,
14 for the purpose of carrying out the order to liquidate and wind up
15 the business of ~~such the~~ person.

16 (b) *The Treasurer or the Attorney General may challenge an*
17 *application for an order to liquidate.*

18 (c) *Before completing any sale of assets of the person that*
19 *exceeds 10 million dollars (\$10,000,000) in price, the*
20 *commissioner shall notify the Treasurer of the pending sale and*
21 *provide any and all documents that the department possesses*
22 *regarding the value of the assets.*

23 ~~10091. Unless the provision or the context otherwise requires,~~
24 ~~the following definitions shall govern the construction of this~~
25 ~~chapter:~~

26 (a) ~~“Association,” “industry placement facility,” or “facility,”~~
27 ~~means a joint reinsurance association (the California FAIR Plan~~
28 ~~Association), formed by insurers licensed to write and engaged in~~
29 ~~writing basic property insurance within this state to assist persons~~
30 ~~in securing basic property insurance and to formulate and~~
31 ~~administer a program for the equitable apportionment among~~
32 ~~such insurers of such basic property insurance.~~

33 (b) ~~“Commissioner” means the Insurance Commissioner of~~
34 ~~this state.~~

35 (c) ~~“Basic property insurance” means insurance against direct~~
36 ~~loss to real or tangible personal property at a fixed location in~~
37 ~~those geographic or urban areas designated by the commissioner,~~
38 ~~from perils insured under the standard fire policy and extended~~

1 coverage endorsement and vandalism and malicious mischief and
2 such other insurance coverages as may be added with respect to
3 such property by the industry placement facility with the
4 approval of the commissioner or by the commissioner, but shall
5 not include insurance on automobile or farm risks.

6 For the purposes of earthquake coverage that is provided as a
7 component of basic property insurance, the association shall sell
8 only the policy described in Section 10089. In force policies of
9 basic property insurance that include earthquake coverage shall
10 be renewed with the coverage specified in Section 10089, and the
11 association shall comply with the notice requirements of
12 paragraph (2) of subdivision (a) of Section 10086.

13 (d) “Inspection bureau” means the organization or
14 organizations designated by the association with the approval of
15 the commissioner to make inspections to determine the condition
16 of the properties for which basic property insurance is sought and
17 to perform such other duties as may be authorized by the
18 association.

19 (e) “Premiums written” means gross direct premiums charged
20 with respect to property in this state on all policies of basic
21 property insurance and the basic property insurance premium
22 components of all multiperil policies, less return premiums,
23 dividends paid or credited to policyholders, or the unused or
24 unabsorbed portions of premium deposits.

25 (f) “Insurer” means any person who undertakes to indemnify
26 another against loss, damage, or liability arising from a
27 contingent or unknown event, and shall include reciprocals and
28 interinsurance exchanges.